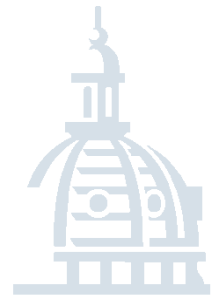


# Fiscal Note

*Fiscal Services Division*



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**HF 263** – Domestic Abuse Assault (LSB1398YH)  
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Fiscal Note Version – New

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## **Description**

[House File 263](#) relates to domestic abuse and offenses involving a domestic relationship, and provides penalties.

## **Background**

This Bill establishes mandatory sentences for crimes involving a domestic relationship and expands the definition of a domestic relationship. According to the Iowa Uniform Crime Report, 1,048 of aggravated assault victims in 2009 were boyfriends/girlfriends of their assailants, and constituted 16.7% of all aggravated assault victims that year. This amount of detail in the Iowa Uniform Crime Report has not been available since 2009.

Under this Bill, risk assessments are mandatory under certain circumstances and are to be performed by the Community-Based Corrections (CBC) of the Department of Corrections (DOC). The Board of Parole (BOP) is required to develop the risk assessment, and approval of the assessment is required by the DOC. The court is required to consider the risk assessment in determining the appropriate conditions for release. The court may order the defendant to be supervised in a program that includes the use of an electronic tracking and monitoring system as a condition of release before being placed on probation, parole, work release, special sentence, or any other type of conditional release. The defendant would be responsible for the cost of this system, and if they fail to pay the fees in a timely manner, the court may impose garnishment of the defendant's wages in order to meet the payment obligation.

Mandatory minimums are established in this Bill for the following situations, and the offenders would be prohibited from receiving a deferred judgment or sentence:

- If an offender is convicted of a third or subsequent domestic abuse assault, the offender is required to serve at least one-fifth of the maximum term, establishing a 20.0% mandatory minimum sentence. Currently, a person who commits a third or subsequent domestic abuse assault commits a Class D felony.
- If an offender is convicted of harassment in the first degree in violation of Iowa Code section [708.7\(2\)](#) involving a domestic relationship, they are required to serve a one-year mandatory minimum sentence if the original sentence exceeds one year. Currently, a person who commits harassment in the first degree commits an aggravated misdemeanor.
- If an offender is convicted of a third or subsequent stalking offense in violation of Iowa Code section [708.11\(3\)\(a\)](#), and the offense involves a domestic relationship, the Bill requires the person to serve a mandatory five-year minimum prison sentence. Currently, a person who commits this stalking offense commits a Class C felony.
- If an offender is convicted of stalking in violation of Code section [708.11\(3\)\(b\)\(1\)](#), involving a domestic relationship, the Bill requires the person to serve a mandatory three-year minimum prison sentence. A person who commits this stalking offense commits a Class D felony.

The definition of stalking is expanded under the Bill to include situations where a technological device is repeatedly used to locate, listen to, or watch a person without a legitimate purpose. This Bill also makes it a crime to place a global positioning device with the intent to intimidate,

annoy, or alarm another person without the consent of that person. This act would be considered a serious misdemeanor punishable by confinement for no more than one year and a fine of at least \$315 and not more than \$1,875.

Currently, an offender serving a violent repeat offender sentence is eligible for a reduction of sentence equal to 1.2 days for each day the inmate serves under good conduct. Under this Bill, an offender serving a sentence for a third or subsequent offense of domestic abuse assault, harassment in the first degree involving a domestic relationship (sentence exceeding one year), a third or subsequent offense of stalking involving a domestic relationship, or stalking while under restrictions of a criminal or civil protective order and satisfactorily participates in a program or placement would be eligible for earned good time. This results in a reduction of sentence equal to fifteen eighty-fifths (0.18) days for each day the inmate serves under good conduct, following the completion of other mandatory terms.

### **Assumptions**

- The following will not change over the projection period: charge, conviction, and sentencing patterns and trends; prisoner length of stay; revocation rates; plea bargaining; and other criminal justice system policies and practices.
- A lag effect of six months is assumed from the effective date of this Bill to the date of first entry of affected offenders into the correctional system.
- Marginal costs for county jails cannot be estimated due to a lack of data. For purposes of this analysis, the marginal cost for county jails is assumed to be \$15 per day.
- In FY 2016, there were 5,380 convictions for domestic abuse and contempt-violation of no-contact or protective orders. The DOC conducted risk assessments on 777 of these individuals. Under [HF 263](#), an additional 4,603 risk assessments would be required to be conducted.
- According to a 2016 workload study, it takes an average of 17 minutes to complete one assessment. The additional assessments would entail an additional 1,304 hours per year, or a workload of 25 hours per week.
- 16.7% of current harassment, stalking, and other assault crimes would be considered domestic in nature under the expanded definition of domestic violence in this Bill.
- 16.7% of general assaults as defined under Iowa Code chapter [708](#) will be considered domestic in nature under this Bill. 50.0% of these additional domestic assault crimes will not lead to additional domestic abuse convictions due to the plea bargain process.
- Offenders will be charged for costs of an electronic tracking and monitoring system.
- The current risk assessment used by the DOC may be sufficient to implement the requirements of this Bill. If this is determined insufficient, the BOP is required to develop a new risk assessment protocol.

### **Impacts**

#### **Correctional Impact**

This Bill is expected to result in an additional 462 domestic crime convictions. It is estimated that annually, there would be an additional 76 admissions to prison, an additional 462 admissions to jail, an additional placement of six offenders to residential treatment programs, and an additional 208 offenders placed on probation. By year five, the prison population would have increased to an additional 236 offenders annually due in part to the increased length of stay (LOS) for those under a mandatory minimum sentence. **Table 1** below shows estimates for sentencing to State prison, parole, probation, or CBC residential facilities; LOS under those supervisions; and supervision marginal costs per day for all convictions of Class C and Class D felonies and aggravated, serious, and simple misdemeanors involving persons' crimes. Refer to the LSA memo addressed to the General Assembly, [Correctional Impact Memo](#), dated January 30, 2017, for information related to the correctional system.

**Table 1 – Sentencing Estimates and LOS**

	Percent to Prison	Avg LOS Prison (months)	FY 16 Marginal Cost/Day Prison	Avg LOS Parole (months)	Percent to Probation	Avg LOS Probation (months)	FY 16 Avg Cost/Day Parole & Probation	Percent to CBC	FY 16 Marginal Cost/Day CBC	Percent to County Jail	Avg LOS County Jail (days)	Marginal Cost/Day Jail
Class C Felony (Persons)	92.0%	38.2	\$18.51	19.8	29.0%	34.6	\$4.59	4.0%	\$10.28	42.0%	N/A	\$15.00
Class D Felony (Persons)	79.0%	16.6	\$18.51	10.5	52.0%	31.9	\$4.59	7.0%	\$10.28	33.0%	N/A	\$15.00
Aggravated Misd (Persons)	47.0%	8.7	\$18.51	6.5	71.0%	20.1	\$4.59	4.0%	\$10.28	56.0%	37	\$15.00
Serious Misd (Persons)	2.0%	5.9	\$18.51	N/A	60.0%	16.1	\$4.59	1.0%	\$10.28	72.0%	28	\$15.00
Simple Misd (Persons)	N/A	N/A	\$18.51	N/A	N/A	N/A	\$4.59	N/A	\$10.28	49.0%	8	\$15.00

The mandatory minimum sentences contained within this Bill would increase a domestic abuse third or subsequent conviction (Felony D) LOS to 36 months, a domestic stalking (Felony D) LOS to 36 months, a domestic stalking (Felony C) LOS to 60 months, and a domestic harassment first (aggravated misdemeanor) LOS to 12 months. LOS is calculated at a midpoint between the earliest parole eligibility date and sentence expiration.

### Minority Impact

This Bill would have a minority impact to the African American community. In FY 2016, 23.4% of the persons convicted of domestic abuse, harassment, and stalking were African American. The U.S. Census estimate as of July 1, 2015, states that the Iowa population was 3.5% African American. In the second year of enactment, there would be 18 more admissions to prison, 108 more admissions to jail, and 49 more admissions to probation of African Americans. Refer to the LSA memo addressed to the General Assembly, [Minority Impact Memo](#), dated January 30, 2017, for information related to minorities in the criminal justice system.

### Fiscal Impact

Under this Bill, it is estimated there would be no additional domestic stalking (Felony C) convictions based upon past sentencing patterns. There would be:

- An estimated 27 additional Class D felony convictions in FY 2018, and 53 additional Class D felony convictions in FY 2019. Of these, 79.0% would be sentenced to prison.
- An estimated 30 additional aggravated misdemeanor convictions in FY 2018, and 59 additional aggravated misdemeanor convictions in FY 2019. Of these, 47.0% would be sentenced to prison.
- An estimated 71 additional serious misdemeanor convictions in FY 2018, and an estimated 141 additional serious misdemeanor convictions in FY 2019. Of these, 2.0% would be sentenced to prison.
- An estimated 105 additional simple misdemeanor convictions in FY 2018, and an estimated 209 additional simple misdemeanor convictions in FY 2019. Of these, approximately 75.0% would be represented by the State Public Defender in court proceedings.

**Table 2 – Estimated Costs for Additional Convictions**

<b>Offense</b>	<b>Cost Range</b>	<b>Net Additional Convictions</b>		<b>Cost Increase Estimate</b>	
		<b>FY 2018</b>	<b>FY 2019</b>	<b>FY 2018</b>	<b>FY 2019</b>
Class C Felony	\$7,500-\$18,600	0	0	\$0	\$0
Class D Felony	\$6,300-\$12,300	27	53	\$298,080	\$585,120
Aggravated Misd	\$3,100 - \$7,000	30	59	\$147,990	\$291,047
Serious Misd	\$250 - \$4,200	71	141	\$23,359	\$46,389
Simple Misd	\$30 - \$330	105	209	\$53,295	\$53,295
Total		233	462	\$522,724	\$975,851

There would be additional costs to the DOC for conducting the additional required risk assessments of \$47,000 based upon the cost of 0.63 FTE position.

If the BOP was required to develop a new risk assessment protocol and have it validated, the cost would be between \$80,000 and \$100,000.

**Sources**

Department of Human Rights, Division of Criminal and Juvenile Justice Planning  
Department of Corrections  
Office of the State Court Administrator  
Office of the State Public Defender  
Board of Parole

/s/ Holly M. Lyons  
March 15, 2017

The fiscal note for this Bill was prepared pursuant to Joint Rule 17 and the Iowa Code. Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.